

WALCZAK ET AL.
"Method And System for Validating A
Mobile Station Location Fix"
Atty. Docket No. CS10560

Appl. No. 09/769,122
Confirm. No. 5562
Examiner D. Le
Art Unit 2685

**Patentability of Claims Over Combinations of Bajikar
With One ore more of Bala, Hill, Yen & Elliot**

Rejection Summary

Claims 1-3 and 12-13 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Publication No. 2002/0198001 (Bajikar).

Claims 4, 6 and 8 stand rejected under 35 U.S.C. 103 (a) as being unpatentable over Bajikar in view of U.S. Patent No. 5, 857,155 (Hill).

Claims 7 and 14 stand rejected under 35 U.S.C. 103 (a) as being unpatentable over Bajikar in view of Hill and U.S. Patent No. 6, 539,230 (Yen).

Claims 9, 15 and 19 stand rejected under 35 U.S.C. 103 (a) as being unpatentable over Bajikar in view of U.S. Publication No. 2002/0068580 (Bala).

Claims 10 and 17 stand rejected under 35 U.S.C. 103 (a) as being unpatentable over Bajikar in view of Bala and Yen.

Claim 11 stands rejected under 35 U.S.C. 103 (a) as being unpatentable over Bajikar in view of Bala and Hill.

Claims 16 and 20 stand rejected under 35 U.S.C. 103 (a) as being unpatentable over Bajikar in view of U.S. Publication No. 2002/0198001 (Elliot).

Claim 18 stands rejected under 35 U.S.C. 103 (a) as being unpatentable over Bajikar in view of Yen and Hill.

Claims 27-28, 30 and 32-33 stand rejected under 35 U.S.C. 103 (a) as being unpatentable over Bajikar in view of Yen.

Claim 29 stands rejected under 35 U.S.C. 103 (a) as being unpatentable over Bajikar in view of Yen and Hill.

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Claim 31 stands rejected under 35 U.S.C. 103 (a) as being unpatentable over Bajikar in view of Yen and Bala.

Examiner's Objection to Declaration Relative to Bajikar Reference

The Examiner contends that that Applicants' seasonally filed Declaration under 37 CFR 1.131 is "ineffective" to overcome the earlier rejections under 35 U.S.C. 102(e) and/or 103(a) based on U.S. Publication No. 2002/0198001 (Bajikar) on the grounds that the "... scope of the declaration ... is not commensurate with the scope of the claims." The Examiner contends specifically that

... the affidavit disclosure describes using a history of measurements (previous location fixes or estimates) to determine the accuracy and develop confidence in the present GPS location fix. The claimed inventions in claims 1 and 12 is for a method to validate a present non-network (GPS) location fix by comparing it to a present network based location fix. The scope of the declaration or affidavit is not commensurate with the scope of the claims.

Discussion of Commensurate Scope

Contrary to the Examiner's assertion, the scope of original Claims 1-11 is commensurate with the scope of the invention disclosure submitted in support of the declaration under 37 CFR 1.131. The Examiner's own statement of the inventions disclosure and claims (quoted above) contradicts the conclusion that the claim scope is not commensurate with the scope of the disclosure. Original independent Claim 1 reads as follows:

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1. (Original) A method for validating a non-network based location fix of a mobile station in a communications network, comprising:
generating a non-network based location fix of the mobile station;
generating a network based location fix of the mobile station;
evaluating the validity of the non-network based location fix of the mobile station by comparing the non-network based location fix with the network based location fix.

Original independent Claim 12 reads as follows:

12. (Original) A method for validating a satellite positioning system based location fix of a satellite positioning system enabled cellular mobile station in a cellular communications network, comprising:
generating a satellite positioning system based location fix of the mobile station;
generating a network based location fix of the mobile station;
evaluating the validity of the satellite positioning system based location fix by comparing the satellite positioning system based location fix to the network based location fix.

The scope of the subject invention disclosure is indisputably commensurate with the scope of the independent Claims 1 and 12 and the depending claims. The invention disclosure is drawn generally to the idea of validating present location fixes based on prior location fixes. The exemplary embodiment is an E911 application where historical network derived location information, e.g., prior neighbor cell measurements and location fixes, are used to develop

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confidence in a present GPS based location fix in a mobile wireless device.
Kindly withdraw the rejections based upon Bajikar.

Examiner's Objection to Declaration Relative to Elliot Reference

The Examiner contends that that Applicants' seasonally filed Declaration under 37 CFR 1.131 is "ineffective" to overcome the earlier rejections under 35 U.S.C. 102(e) and/or 103(a) based on U.S. Publication No. 2002/0198001 (Elliot). The Examiner alleges curiously that the

... scope of the declaration or affidavit is not commensurate with the scope of the Elliot reference even though the Elliot reference can be interpreted, as cited by the examiner in the Office Action, to read on Claims 16 and 20.

Discussion of Declaration Relative to Elliot Reference

The Applicant's Declaration under 37 CFR 1.131 merely provides factual evidence that the claimed invention predates the effective date, known as the 35 U.S.C. 102(e) date, of the Elliot reference. The scope of the Elliot reference is not at issue since Elliot does not qualify as statutory prior art. Kindly withdraw the statutory rejections based upon Bajikar and Elliot.

Allowability of Claims Over Yen & Bala

Rejection Summary

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The Examiner maintains the rejection of Claims 21-22 and 24 under 35 USC 102(e) as being anticipated by U.S. Patent No. 6,539,230 (Yen). Office Action, 10 November 2003, para. 3.

Claims 23 and 25-26 stand rejected under 35 USC 103(a) as being unpatentable over Yen in view of U.S. Publication No. 2002/0068580 (Bala). Office Action, 10 November 2003, para. 12.

Discussion of Allowability of Claim 21

Regarding Independent Claim 21, contrary to the Examiner's assertion, Yen fails to disclose or suggest a

... method for validating a location fix of a mobile station, comprising:
generating a plurality of location fixes of the mobile station;
evaluating the validity of a recently generated location fix of the mobile station by comparing the location fix for which the validity determination is required to a previously generated mobile station location fix.

Yen discloses a GPS-enabled mobile station (MS) that determines whether or not to perform a frequency for a new control Channel (DCCH) based on movement of the mobile station to a new location (x_n, y_n) relative to a prior location (x_1, y_1). In Yen, the MS searches for a new DCCH only if it has moved a distance "L" from the prior location. Yen does not disclose "... evaluating the validity of a recently generated location fix of the mobile station by comparing the location fix for which the validity determination is required to a previously generated mobile station location fix." Yen assumes that the new location computation is accurate. Yen uses the prior location as a

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reference with which to measure the distance traveled to the new location. Claim 21 and the claims that depend therefrom are thus patentably distinguished over Yen.

Discussion of Allowability of Claim 22

Regarding Claim 22, dependent from Claim 21, Yen fails to disclose or suggest in combination with the limitations of Claim 21,

... evaluating the validity of the location fix for which the validity determination is required by determining whether it is within a specified range of the previously generated location fix.

Yen does not disclose or suggest evaluating the validity of a location fix based on one or more prior location fixes. As noted, Yen assumes that the present location fix is valid and uses it to determine whether or not to scan for a new DCCH. Claim 22 is thus further patentably distinguished over Yen.

Discussion of Allowability of Claim 23

Regarding Claim 23, dependent from Claim 22, Yen fails to disclose or suggest in combination with the limitations of Claim 21,

... defining the specified range based on an estimated velocity of the mobile station and a time variable.

The Examiner concedes that Yen does not disclose defining an "... estimated range based on estimated velocity of the mobile station and a time variable..." but alleges that the "... Bala reference teaches 'a subscriber's likely

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current location could be determined, at least in part, based on the subscriber's last location, the speed and direction of travel of the subscriber and the time when the subscriber's last location was confirmed." Office Action, 10 November 2003, para. 12.

The determination of location (as allegedly disclosed by Bala) is not the same as "...defining the specified range based on an estimated velocity of the mobile station and a time variable" as recited in Claim 23. Yen and Bala also fail to disclose or suggest the limitations of Claims 21 and 22, from which Claim 23 depends. Claim 23 is thus further patentably distinguished over Yen and Bala.

Discussion of Allowability of Claim 24

Regarding Claim 24, dependent from Claim 21, Yen fails to disclose or suggest in combination with the limitations of Claim 21,

... evaluating the validity of the location fix for which the validity determination is required by determining whether it is closer to a more recently generated location fix than it is to a less recently generated location fix.

Yen does not disclose or suggest determining whether a presents location fix is nearer to a more recently generated location fix than it is to a less recently generated location fix. Yen assumes that the present location fix is valid and uses it to determine whether or not to scan for a new DCCH. Claim 24 is thus further patentably distinguished over Yen.

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Discussion of Allowability of Claim 25

Regarding Claim 25, dependent from Claim 21, Yen fails to disclose or suggest in combination with the limitations of Claim 21,

... estimating a future position fix of the mobile station, evaluating the validity of the location fix for which the validity determination is required by determining whether it is within a specified range of the estimated future position fix of the mobile station.

The Examiner concedes that Yen does not disclose the limitations of Claim 25, but assert that the "... Bala reference teaches 'a subscriber's likely *current location* [emphasis supplied] could be determined, at least in part, based on the subscriber's last location, the speed and direction of travel of the subscriber and the time when the subscriber's last location was confirmed.'" Office Action, 10 November 2003, para. 12. Bala teaches determining current location as italicized above, not "future" location as recited in Claim 25. Claim 25 is thus further patentably distinguished over Yen and Bala.

Discussion of Allowability of Claim 26

Regarding Claim 26, dependent from Claim 25, Yen fails to disclose or suggest in combination with the limitations of Claim 25,

... estimating a velocity of the mobile station, defining the specified range based on the estimated velocity and time interval.

The determination of location (as allegedly disclosed by Bala) is not the same as "... defining the specified range based on an estimated velocity

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and time variable" as recited in Claim 26. Yen and Bala also fail to disclose or suggest the limitations of Claims 21 and 25, from which Claim 26 depends. Claim 26 is thus further patentably distinguished over Yen and Bala.

Pray For Relief

In view of the amendments and the discussion above, the Claims of the present application are in condition for allowance. Kindly withdraw any rejections and objections and allow this application to issue as a United States Patent without further delay.

The Examiner is invited to contact the undersigned upon carefully reviewing the foregoing amendment and discussion, prior to preparing an official action in response thereto.

Respectfully submitted,



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